

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BEGASHAW AYELE,

Plaintiff,

V.

COGNISA SECURITY COMPANY, INC.,

Defendant.

Civil Action No.: 04CV12217-PBS

DEFENDANT’S REPLY TO PLAINTIFF’S
OPPOSITION TO DEFENDANT’S BILL OF COSTS

Defendant, Cognisa Security Company, Inc. (“Cognisa”), by and through its attorneys, Duane Morris LLP, submits this reply memorandum in support of its Bill of Costs and to correct a misstatement made by Plaintiff in Plaintiff’s Opposition To The Defendant’s Bill of Costs (“Opposition”).

Plaintiff erroneously contends in his Opposition that Cognisa’s Bill of Costs is untimely. Plaintiff makes this assertion despite the fact that the Bill of Costs was filed on November 23, 2005, just one day after the Court adopted the Report and Recommendation for summary judgment of the Magistrate Judge (Bowler, J.), and entered summary judgment in Cognisa’s favor. In support of his contention, Plaintiff cites to footnote 2 of the Report and Recommendation which invited Cognisa to submit, within 10 days of the date of the Report and Recommendation, a written motion in support of its renewed motion for costs related to certain “discovery matters.” The discovery matters cited in footnote 2 were matters that were previously resolved in Cognisa’s favor for which Cognisa had previously requested its attorneys fees and

costs which requests the Magistrate Judge had previously denied “without prejudice to be renewed at the conclusion of the case.” See Orders dated July 22, 2005 and August 2, 2005, together attached hereto as Exhibit A. By its terms, footnote 2 of the Report and Recommendation sets a timeline for Cognisa to renew its previous motions for fees and costs related to “discovery matters”, and does not set a timeline for filing a Bill of Costs seeking expenses relating to Cognisa’s Motion for Summary Judgment. Accordingly, Plaintiff’s contention that the Bill of Costs was filed in an untimely manner is erroneous.

Given that Cognisa’s Bill of Costs was filed in a timely manner, just one day after Judgment entered in its favor, and given the heavy presumption in favor of an award of costs, Cognisa respectfully requests the Court allow the \$1,215.75 as costs in this litigation.

Respectfully submitted,
COGNISA SECURITY, INC.

By its attorneys

/s/Bronwyn L. Roberts
Bronwyn L. Roberts, BBO# 638079
DUANE MORRIS LLP
470 Atlantic Avenue, Suite 500
Boston, MA 02210
(617) 289-9200

and Co-Counsel
(admitted *pro hac vice*)
Terry P. Finnerty
Georgia Bar No. 261561
Peter B. Murphy
Georgia Bar No. 531032
Duane Morris LLP
1180 West Peachtree Street
Suite 700
Atlanta, GA 30309
(404) 253-6900

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

BEGASHAW AYELE,

Plaintiff,

V.

COGNISA SECURITY COMPANY, INC.,

Defendant.

Civil Action No.: 04CV12217-PBS

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system.

I further certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant:

Begashaw Ayele
261 O'Callaghan Way #816
South Boston, MA 02127

/s/Bronwyn L. Roberts
Bronwyn L. Roberts
Attorney for Defendant